

AMENDMENTS TO THE DRAWINGS

Please substitute the attached Replacement Sheets of Drawings, which replace the original drawings including those same Figures and contain exactly the same drawing Figures containing the same lines, numbers, figures and letters, as required by the Examiner. No changes have been made or new matter added to the content of the Drawings or Figures.

Attachment: Replacement Sheets

REMARKS

Applicant thanks the Examiner for the very thorough consideration given the present application. Claims 1-9 and 11-17 remain in the application and claim 1 is independent. The Office Action dated June 24, 2009 has been received and carefully reviewed. Each issue raised in the Office Action is addressed below. Reconsideration and allowance of the present application are respectfully requested in view of the following remarks.

Priority Under 35 U.S.C. § 119

Applicant thanks the Examiner for acknowledging Applicant's claim for foreign priority under 35 U.S.C. § 119, and receipt of the certified priority document.

Information Disclosure Citation

Applicant thanks the Examiner for considering the references supplied with the Information Disclosure Statement filed June 16, 2005, and for providing Applicant with an initialed copy of the PTO-1449 form filed therewith.

Objection to the Drawings

The Drawings stand objected to for being of generally poor quality, and new Drawings have been required. Responsive thereto, Applicant presents herewith Replacement sheets of Drawings that comply with the requirements of 37 C.F.R. § 1.84. No new matter has been entered. Reconsideration and withdrawal of the objection are respectfully requested.

Claim Rejections – 35 U.S.C. § 112, Second Paragraph

Claim 9 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for lack of proper antecedent basis. Responsive thereto, claim 9 has been amended to correct the antecedent basis. It is submitted that the claims now particularly point out and distinctly claim the subject matter that Applicant regards as the invention. Reconsideration and withdrawal of the rejection are respectfully requested.

Claim Rejections – Based upon Browne

Claims 1-6, 9-12 and 14-16 stand rejected under 35 U.S.C. § 102(b) as unpatentable over U.S. Pat. No. 549,985 to Browne. Claims 13 and 17 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Browne. Applicant submits that the Examiner has failed to establish a *prima facie* case of anticipation and respectfully traverse the rejection. A complete discussion of the Examiner's rejection is set forth in the Office Action, and is not being repeated here.

In order to establish a *prima facie* case of anticipation under 35 U.S.C. § 102, the cited reference must teach or inherently include each and every element of the claims. See MPEP § 2131; MPEP § 706.02. Applicant also submits the Examiner has failed to establish a *prima facie* case of obviousness and respectfully traverses the rejection. In order to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a), the cited references must teach or suggest each and every element in the claims. See MPEP § 706.02(j); MPEP §§ 2141-2144.

While not conceding the appropriateness of the Examiner's rejection, but merely to advance prosecution of the instant application, Applicant respectfully submits that independent claim 1 has been amended to recite a combination of elements in a tool for removing ticks including a V-shaped groove provided that has side faces between the bottom face and the top face at an edge of the engagement part, in which side edges converge towards each other from an outer opening at the edge towards an internal assembly point, the V-shaped groove being wider at the top face of the engagement part than it is at the underside, wherein each side face of the V shaped groove is concave and wherein at the bottom of the V-shaped groove a cutter blade is provided in level with the bottom face. Applicant respectfully submits that this combination of elements as set forth in independent claim 1 is not disclosed or made obvious by the prior art of record, including Browne.

The Examiner states that the V shaped groove "a" of Brown is similarly shaped and, with respect to original claim 10, argues that "recess a²" of Brown may be considered to be a cutter blade. With all due respect, Applicant submits that it is unreasonable to characterize recess a² as a blade at all, much less a cutter blade provided level with the bottom surface.

First, it must be emphasized that the instant claims are directed to a tool for removing ticks, wherein the claimed concave side faces of the tool operate to lift the tick out of the skin as the tool moves in the manner shown in Figure 4 of the instant application. And, as described on page 12 of the application, it is possible that the head of the tick may not be completely removed and therefore a cutter is provided at the bottom of the V-shaped groove level with the bottom face of the tool. The cutter permits the user of the tool to cut off the head of the tick. In order for the cutter to best perform its function it is mounted "level with the bottom face" as now claimed in claim 1, and as is shown in Figure 8, so that it may pass under the head of the tick when the motion of Figure 4 is performed. And the cutter also must be provided with a "very sharp front edge" so as to perform the cutting function. As an aside, page 12, lines 25-26, of the instant application make clear that the cutter blade may be applied to any of the other embodiments.

To the contrary, Browne is directed toward a tack puller, and desires to pull tacks rather than to cut off their heads and leave the tack body behind, which would be very undesirable. As a result, all of the edges of notch a and all of the edges of recess a² of Browne can clearly be seen in Figure 4 to be blunt rather than sharp. Therefore, it is submitted that a careful study of the Figures of Browne shows that there is no cutter blade provided at the bottom of the V-shaped groove. Furthermore, Applicant respectfully submits that it is not reasonable to construe "recess a²" to be a cutter blade, and even if it were, which we do not admit, recess a² can be seen in Figure 4 of Browne not to be located level with the bottom face, where it would need to be if one were going to attempt to cut with it.

Applicants respectfully submit that the combination of elements as set forth in independent claim 1 is not disclosed or made obvious by the prior art of record, including Browne, for the reasons explained above. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested. With regard to dependent claims 2-6, 9 and 11-17, Applicants submit that claims 2-6, 9 and 11-17, depend, either directly or indirectly, from independent claim 1 which is allowable for the reasons set forth above, and therefore claims 2-6, 9 and 11-17 are allowable based on their dependence from claim 1. Reconsideration and allowance thereof are respectfully requested.

Claim Rejections – 35 U.S.C. § 103

Claims 1-9, 11, 12, 14 and 16 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Browne in view of U.S. Pub. No. 2003/0141492 to Benitez et al. ("Benitez"). Applicant submits the Examiner has failed to establish a *prima facie* case of obviousness and respectfully traverses the rejection. A complete discussion of the Examiner's rejection is set forth in the Office Action, and is not being repeated here.

In order to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a), the cited references must teach or suggest each and every element in the claims. See MPEP § 706.02(j); MPEP §§ 2141-2144.

Benitez was also cited for its showing of a V-shaped groove on a tool. However, Benitez suffers from the same defects as Browne as discussed above, inasmuch as it fails to show or suggest a cutter blade provided at the bottom of the V-shaped groove at a location level with the bottom. Moreover, inasmuch as this rejection was not applied to original claim 10, the amendment of original independent claim 1 to include the feature of a cutter blade provided at the bottom of the V-shaped groove at a location level with the bottom renders this rejection under 35 U.S.C. § 103(a) moot. Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

Conclusion

All objections and rejections raised in the Office Action having been properly traversed and addressed, it is respectfully submitted that the present application is in condition for allowance. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Notice of same is earnestly solicited.

Prompt and favorable consideration of this Amendment is respectfully requested.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone Paul T. Sewell, Registration No. 61,784, at (703) 205-8000, in the Washington, D.C. area.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.14; particularly, extension of time fees.

Dated: September 24, 2009

Respectfully submitted,

By 

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